IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CRIMINAL WRIT PETITION NO.782 OF 2006

Smt.Nina Y. Mathur : Petitioner

V/s.

Rupee Co-op. Bank Ltd. & Anr. : Respondents

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Mr.V.A.Thorat with Mr.Anilkumar Patil for the petitioner.

Mr.C.P.Deogirikar for respondent no.1.

Mr.D.P.Adsule for respondent no.2.

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CORAM : R.S.MOHITE, J.

DATE : APRIL 25, 2006.

P.C.

1. Heard both the sides.

Rule.

The learned counsel for the respective respondents waive service of rule.

By consent, rule made returnable forthwith.

2. This Writ Petition seeks to quash proceedings being Criminal Complaint Case No.1238 of 2005 pending in the Court of 6th J.M.F.C., Thane. It is sought to be argued that on perusal of the complaint, it is self-evident that none of the acts which constitute the ingredients of

section 138 had taken place within the jurisdiction of the trial Court at Thane. It was sought to be argued that admittedly, drawing of the cheque was at Bandra, presentation of the cheque by the complainant was at Bandra and the return of the unpaid cheque was at Bandra. The notice was pasted at Bandra and received at Bandra and since the drawer had his office at Bandra, the failure of the drawer to make payment is construed as failure to make payment at Bandra. On behalf of the complainant-respondent, it was contended that the complainant had a regional office at Thane where the complaint was filed. It was further contended that they carried on business at Thane. Both the Advocates do not dispute the fact that the Magistrate at Bandra has jurisdiction. In my view, it would be expedient in the ends of justice to transfer this case from the Court of J.M.F.C., Thane, to the Court of Metropolitan Magistrate at Bandra. The Chief Metropolitan Magistrate is directed to assign the matter to a particular Court at Bandra.

3. The rule is made absolute in the aforesaid terms.

R.S. MOHITE, J.